

**MINUTES OF THE
CITY PLANNING COMMISSION
MAY 18, 2007
J. MARTIN GRIESEL CONFERENCE ROOM
TWO CENTENNIAL PLAZA – SUITE 700
805 CENTRAL AVENUE**

CALL TO ORDER

Mr. Faux called the meeting to order at 9:04 a.m.

Commission Members:

Present: Caleb Faux, Jacquelyn McCray, Donald Mooney, Rainer vom Hofe, James Tarbell and Milton Dohoney,

Community Development and Planning Staff: Margaret Wuerstle, Bonnie Holman, Katherine Keough-Jurs and Jennifer Walke.

Law Department:

Julia Carney

APPROVAL OF MINUTES

Submission of the minutes from the May 4, 2007 Planning Commission meeting for approval.

Motion:	Ms. McCray moved approval of minutes.
Second:	Mr. vom Hofe
Ayes:	Mr. Faux, Ms. McCray, Mr. Mooney and Mr. vom Hofe
Nays:	None, motion carried

CONSENT ITEMS

ITEM #1 A report and recommendation on authorizing the sale of surplus City-owned real property located at 340 Baum Street to Aspen Properties – Building K, LLC.

ITEM #2 A report and recommendation on the execution of a deed quit claiming and releasing to Episcopal Retirement Homes, Inc., two easements for sanitary sewers that encumber the Deupree House property in Oakley

ITEM #3 A report and recommendation on authorizing the City Manager to enter into an agreement of lease with Signature Engines, Inc. for Lunken Airport Lease Area 24 containing Hanger 6.

ITEM #4 A report and recommendation on authorizing the City Manager to enter into an agreement of lease with E.J. Aircraft, Inc. for Lunken Airport Lease Areas 29 (containing Hanger 1) and 11.

Motion: Mr. Mooney moved approval of Consent Items #1-4.
Second: Ms. McCray
Ayes: Mr. Faux, Ms. McCray, Mr. Mooney and Mr. vom Hofe
Nays: None, **motion carried**

DISCUSSION ITEMS

ITEM #5 A report and recommendation on a zoning study at the Evanston Five-Point Neighborhood Business District.

Ms. Katherine Keough-Jurs, Senior Planner presented this item.

Mr. Dohoney arrived 9:07 a.m.

Mr. Tarbell arrived 9:08 a.m.

GENERAL INFORMATION:

Location: The Five Point Neighborhood Business District (NBD) is located along Woodburn Avenue between Gilpin Avenue and Hewitt Avenue and along Montgomery Road between Hewitt Avenue and Duck Creek Road.

Petitioner: Evanston Community Council

Purpose: To ensure consistency with the neighborhood's 2003 Evanston Five-Point Urban Renewal Plan by emphasizing residential and low-intensity commercial uses in the NBD.

BACKGROUND:

The Evanston Five Point Urban Renewal Plan was adopted by Cincinnati City Council in 2003. Two of the recommendations in the Plan were to 1) reduce the size of the NBD by restricting it to the core area surrounding the Five Point convergence; and 2) rezone the properties south of the Five Point convergence from business to mixed-use commercial and residential zoning. Because the zoning code was in the process of being re-written, no specific zones were recommended.

The Evanston Community has been working diligently to implement portions of the Urban Renewal Plan, and has recently been allocated \$2 million for programs related to Plan implementation. The Community Council feels that the rezoning is essential to their success in attracting appropriate uses to revitalize the NBD. Although the official request for the zoning study included only those properties south of the Five Point convergence,

the Community Council later requested that the study include all properties in the NBD in order to review it more comprehensively.

EXISTING CONDITIONS:

The properties within the Evanston Five Point NBD are zoned Commercial Neighborhood – Mixed (CN-M) and Commercial Community – Mixed (CC-M). The properties are a mixture of commercial and residential uses. Most of the properties north of the Five Point convergence are commercial uses. The properties south of the Five Point convergence are mostly residential with commercial uses interspersed. Some commercial uses are located on the first floor of large homes.

The property surrounding the NBD is as follows:

North: RMX Residential Mixed, and SF-2 Residential Single Family

West: RMX Residential Mixed

South: CC-M Commercial Community – Mixed and CN-M Commercial Neighborhood - Mixed

East: RMX Residential Mixed, SF-2 and SF-4 Residential Single Family

PLANS:

The Evanston Five Point Urban Renewal Plan (2003) is the basis for this zoning study. The Plan recommends a rezoning of the southern portion of the NBD from Business (at the time of the Plan, the zoning was primarily B-2, B-3, and B-4) to mixed-use commercial and residential zoning. The rationale was that the rezoning would encourage renovation of existing mixed-use structures and promote family-oriented businesses. The recommendation for the northern portion of the NBD (zoned mostly B-4 at the time) was for a medium and high-density business zoning to remain in place, as that was the core area of business development recommended in the Plan.

PUBLIC COMMENT:

Planning Staff held a public conference on this zoning study on April 10, 2007. Ten people were in attendance. Those in attendance were generally supportive of following the recommendations set forth in the Plan, but most had questions about how the rezoning would impact existing businesses. Specifically, there was concern about rezoning the properties north of the Five Point convergence presently zoned CC-M. Several auto-oriented businesses operate in that area, and those businesses would be negatively impacted by a change to a zone that does not allow auto-oriented uses. Also, residents in attendance expressed a desire to allow some auto-oriented business to remain in the NBD for the sake of jobs and convenience. Representatives of the auto-oriented businesses in attendance offered to work with the Evanston Community Council to ensure that all properties are well-kept and properly buffered from residential uses.

The Evanston Community Council discussed this zoning study at their regular meeting on April 18, 2007. After a presentation and questions, the Evanston Community Council voted in support of a zone change that follows the 2003 Urban Renewal Plan.

ANALYSIS OF THE PROPOSED CHANGE:

The Evanston Five Point Urban Renewal Plan (2003) recommended that the NBD could be more successful if the bulk of the commercial uses were concentrated in a smaller area, instead of spread out along an NBD that is too long and intermittent to be effective. Additionally, there are concerns that some of the older homes along this stretch, some of which are large, beautiful turn of the century residences, may be converted to or demolished for commercial uses. When analyzing the zoning in this area, it was important to consider existing uses in contrast with existing and proposed zoning to ensure that no property owner would be harmed by a rezoning of their property. The resulting recommendations are a balance between the desires of the community and the needs and rights of the property owners.

A change in the bulk of the NBD from CN-M Commercial Neighborhood – Mixed to CN-P Commercial Neighborhood – Pedestrian will allow most businesses to continue operation with little to no change. However, auto-related uses such as drive-through access, fuel stations, car repair, and vehicular storage lots will not be permitted in any future use of the properties in this area. Existing businesses will be permitted to continue to operate, and can even be replaced by another of the same use. However, the business cannot expand.

A change from CN-M Commercial Neighborhood – Mixed to RMX Residential Mixed on the residential properties in the NBD will not only retain residential uses, but will also act as a boundary for the NBD, shortening it slightly to encourage a concentration of business uses. Two properties that the Community Council specifically requested to be rezoned RMX are excluded from this recommendation: the bus lot and the auto repair property. These properties are not recommended to be rezoned RMX, but rather CN-P. Although the bus lot is targeted as a site for future residential development, it may be more marketable to a future developer if some commercial uses are still permitted. This would allow for a residential development with related commercial uses on-site. The auto repair property may not be appropriate for residential development; rezoning it residential may greatly reduce the property owner's ability to sell or redevelop the property.

The properties along the west side of Montgomery Road between Ruth Avenue and Dauner Avenue should remain CC-M Commercial Community – Mixed. They are commercial in nature, and some are auto-oriented. This is also the portion of the NBD that was recommended to retain its auto-oriented uses, and changing the zoning in this location would cause significant harm to the businesses. It is recommended that the business and property owners in this area continue to work with the Evanston Community Council to ensure orderly development and maintenance of these properties, and appropriate buffering from the adjacent residential properties.

There are two additional areas where no change in zoning is recommended: at the far northern and far southern edges of the study area. The property at the northern edge is commercial in nature; it should not be changed to the neighboring zone of CC-M Commercial Community – Mixed, but is also at too busy an intersection and too close to I-71 to legitimately consider a pedestrian-oriented zone. The two properties at the

southern edge of the study area are commercial in nature, and are more closely connected to the DeSales Corner NBD and the other CN-M properties in that area than the Evanston Five Point NBD. For these reasons no change is proposed on these properties.

CONCLUSIONS:

1. The CN-P Commercial Neighborhood – Pedestrian designation is appropriate for the portion of the NBD between Holloway Avenue and Fairfax Avenue and on the commercial properties near Woodburn Avenue and Merrimac Street. These properties are primarily commercial uses; the CN-P designation prevents auto-oriented development but still allows commercial uses.
2. The RMX Residential Mixed zoning is appropriate for the residential uses along Woodburn Avenue between approximately Fairfax Avenue and Gilpin Avenue. These properties are primarily residential in use. Rezoning of these properties will allow existing commercial uses to remain, but will encourage the future use of homes as residential uses.
3. The CC-M Commercial Community – Mixed District zoning is an appropriate designation for the property that is already zoned as such. No zone change is recommended for these properties.
4. The CN-M Commercial Neighborhood – Mixed is appropriate for the properties presently zoned as such at the far northern and far southern edges of the study area. No zone change is recommended for these properties.
5. These conclusions are in keeping with the recommendations of the Evanston Five Point Urban Renewal Plan (2003), while ensuring that existing businesses are not unduly harmed.

RECOMMENDATION:

The staff of the Department of Community Development and Planning recommended that City Planning Commission take the following action:

Approve a zone change from CN-M Commercial Neighborhood – Mixed to CN-P Commercial Neighborhood – Pedestrian and RMX Residential Mixed in the Evanston Five Point NBD in Evanston.

DISCUSSION

Ms. Keough-Jurs gave a brief overview of the staff report and presented a large map to illustrate the proposed zone changes. She pointed out that an auto-orientated business, Joe's Garage that would be a non-conforming use within the proposed CN-P zone. She said that the Evanston Community Council supported the zone changes.

Mr. Ed Phetzing, Evanston Community Council member, stated that at the May 18, 2007 Community Council meeting, they voted to support the proposed zone change that follows the 2003 Urban Renewal Plan. He requested that his property at 2123 Woodburn Avenue be included in the RMX zone.

Mr. Joseph Ridder and Ms. Marti Ridder, owners of Joe's Garage presented a letter to the Commission Members outlining their objections to the zone change. Mr. Ridder stated that they had invested a great deal of money into their property and business on Woodburn Avenue, which they have owned since 1983. Ms. Ridder stated that rezoning their property would deprive them of their livelihood.

Mr. Mooney explained that as a non-conforming use the Ridders could continue to operate or sell the existing business. The only stipulation would be that if the business were closed for more than one year it would lose its non-conforming use designation. He added that there were many non-conforming businesses in the City.

Mr. Ridder stated that he and his wife felt that the value of their property would be diminished and more difficult to sell in the future as a non-conforming use. He stated that the property is also a former Underground Storage Tank Site (UST). Ms. Ridder stated that the zone change would not allow expansion of their business.

Ms. Keough-Jurs confirmed that expansion for a non-conforming use business would not be allowed. She stated that community members indicated that they preferred that the garage did not expand. Mr. Dohoney asked if additional time would assist in resolving the Ridders zoning issues. Ms. Keough-Jurs answered that she felt the zone changes as proposed would be best for the community. Mr. Dohoney asked if she had about heard any intent to drive the Ridders out of the neighborhood. Ms. Keough-Jurs said she had not.

Mr. Mooney asked if it would be considered spot zoning to allow the Ridders property to remain CN-M. Mr. Phetzing stated that he felt the property owners would not be able to expand even if the zoning remained the same due to the location of the property. He stated that the property is enclosed with barbed wire topped chain link fence and that dogs bark at children walking by. He said that the 2003 Urban Renewal Plan did not include auto-orientated use in that area and that he felt that the Plan should be followed.

Mr. Faux stated that he understood that the zone change would eliminate the Ridders possibility of expansion in the future. He said that he agreed with Ms. Ridder that a non-conforming use designation encumbered the property.

Mr. Tarbell stated that in the past, the business district expanded inappropriately without a Plan. He said that he felt the staff recommendations were correct and was in agreement with the rezoning for Joe's Garage. He explained that he felt that the Urban Renewal Plan would improve the neighborhood and in time increase property values.

Ms. McCray stated that she supported the staff recommendations and suggested that staff and/or the law department clarify the spot zoning issue.

Ms. Ethel Merriweather, East Walnut Hills resident, stated that she was interested in learning if her home would be affected by the zone changes. Ms. Keough-Jurs stated that the zoning for her property would remain the same.

Mr. Mooney suggested a friendly amendment that would include Mr. Phetzing's property at 3123 Woodburn Avenue in the RMX district.

Motion: Mr. Tarbell moved approval of Item #5 with the amendment that the property at 3123 Woodburn Avenue be included in the RMX district.
Second: Ms. McCray
Ayes: Mr. Faux, Ms. McCray, Mr. Mooney, Mr. Tarbell, Mr. Dohoney and Mr. vom Hofe
Nays: None, **motion carried**

ITEM #6 A report and recommendation on a proposed text amendment to the Cincinnati Zoning Code on a new zoning district entitled "Parks and Recreation"; amendments to Chapter 1401 *Definitions*, Chapter 1423-13 *Buffer Yards* and Chapter 1425-27 *Parking Lot Screening*; and a zone change on 3,537 City-owned parcels throughout the City of Cincinnati.

Ms. Katherine Keough-Jurs, Senior Planner presented this item.

GENERAL INFORMATION:

Petitioner: Cincinnati City Council

Purpose: To create a separate Parks and Recreation zoning district to ensure that City-owned parks and recreation areas cannot be sold to private entities without a public process.

BACKGROUND:

On February 13, 2004, a new zoning code for the City of Cincinnati went into effect. As the old code, the new code did not have a special zoning district for parks and recreation areas. Rather, parks were listed as permitted uses in all residential zones and City-owned parks or recreation areas were zoned to be consistent with the surrounding zoning. Larger parks and recreation areas were zoned SF-20 Residential Single Family.

During City Council's public hearings for the new code, a group of representatives from various Community Councils voiced their concern about the new code not having a separate district for parks and recreation areas. A primary concern was that the City could sell park, recreation, or open space property for development without adequate notice to the surrounding community. Because staff and community members had spent many years writing, reviewing and editing the new zoning code, City Council approved the new code without the separate district for parks and recreation areas and directed Planning Staff and the Planning Commission to study and report back to City Council on the creation of a public park and recreation zoning designation for land owned by the Park Board or Recreation Commission.

On April 7, 2006, City Planning Commission reviewed three options for the direction of the zoning study:

1. Make No Changes to the Code Text
2. Create a New Zoning District
3. Create a New Overlay

City Planning Commission determined that there is a need to provide some level of protection to the City's public parks and recreation spaces, and that a separate designation for parks and recreation areas is the best way for the zoning code to address the issue. The Commission directed Staff to convene a working committee to prepare the district guidelines and map amendments for approval by City Planning Commission, the Park Board, the Cincinnati Recreation Commission, and City Council.

EXISTING CONDITIONS:

Many of the larger parks and recreation areas, such as Eden Park, Ault Park, Burnet Woods, Washington Park, California Golf Course, and Alms Park, are currently zoned SF-20. Other parks, recreation areas, or playfields, such as Pleasant Ridge Park (SF-6), Owl's Nest Park (RMX), Ziegler Playfield (CN-P), Reeves Golf Course (ML) and Bicentennial Commons (RF-R and DD) are zoned to be compatible with surrounding zones.

PUBLIC AND STAFF COMMENT:

A public Staff Conference was held on May 25, 2005. Attendees voiced their concern about park or open space property being sold without proper public notification, and their concern that the City may prioritize the need for funds over the importance of preserving greenspace. Although the Park Board and Recreation Commission do not sell or make improvements to a park or recreation area without gaining Community Council support, it was suggested that this is done only out of courtesy and is not policy. The Park Board and Recreation Commission also have a policy of no net-loss of greenspace, meaning that each acre of park or recreation land that is redeveloped must be replaced in the same neighborhood at a 1:1 ratio, minimally. Some community members present questioned whether this is an adopted city policy. It was also mentioned that Community Councils are consulted, but there may not be adequate outreach to surrounding property owners who may not participate in their Community Council or cannot attend the meeting when the property is discussed.

On March 14, 2006, Staff held a special update meeting to present and gain input on the three options eventually presented to City Planning Commission on April 7, 2006.

In September 2006, Planning Staff contacted all parties previously interested in the Park and Recreation District and invited them to become a part of the working group. Thirteen citizens indicated an interest and attended the working group meetings along with Staff from the Department of Community Development and Planning, Cincinnati Recreation Commission, Cincinnati Park Board, and Law Department.

The draft of the proposed district was presented to the Cincinnati Recreation Commission and Cincinnati Park Board in early 2007. The Cincinnati Recreation Commission voted to support the new district on March 20, 2007. The Cincinnati Park Board voted to support the new district on April 19, 2007.

ANALYSIS OF PROPOSED CHANGE:

The proposed change involves the creation of an entirely new zoning designation, including the preparation of text with development standards and map amendments for all public parks and recreation areas in the City. The new designation includes only those properties owned or maintained by the Cincinnati Recreation Commission or Cincinnati Park Board and designated as public parks or recreation areas; it does not include semi-public or private land.

The working committee reviewed codes from other cities that use special zoning districts as a way to protect parks and open space. The committee considered regulations from such cities as Pittsburgh, Pennsylvania; Toledo, Ohio; Chicago, Illinois; Rochester, New York; Covington, Kentucky; and, Erlanger, Kentucky when designing the proposed new district. As helpful these other codes were, it was necessary to craft a new district that meets the needs of Cincinnati's parks and recreation facilities specifically. Therefore, the new district does not merely duplicate that of another city.

A primary concern when drafting the proposed new district was that it must not hinder or over-regulate the activities of the Park Board or CRC. The purpose of the zoning district is intended to protect parks and recreation areas, not regulate their activities beyond the guidelines already in place. This issue sparked quite a bit of discussion among the members of the working committee, some of whom felt that the purpose of the new district should be to preserve open space, and therefore wanted the new district to be more restrictive than the SF-20 zone in both permitted uses and other development regulations.

Definition

While amendments were under consideration, it was a logical time to make sure that the definition of Park and Recreation Facilities was correct as well. In order to more accurately describe Parks and Recreation Areas in the City of Cincinnati, Staff proposes a small change to include *wavepools* and *spraygrounds*. These water features, which allow for the recreational aspect of a pool without the danger of a deep-water tank, may become more prevalent in recreation areas in future years.

Permitted Uses

A review of the code determined that some uses that are integral to the operation and maintenance of parks and recreation areas are not permitted in the SF-20 zoning district. In order to create a zoning district that reflects the needs of Cincinnati's parks and recreation areas and does not create an excess of nonconforming uses, it is necessary to permit some uses not permitted in any residential district. For example, use classifications such as Cemeteries, Cultural Institutions, Government Facilities and Offices, Public Maintenance Facilities, Full Service Restaurants, and Funeral and

Interment Services are listed as permitted uses, conditional uses, or uses permitted with limitations.

Rationale for these uses is detailed below:

Cemeteries – Permitted with a Limitation

Existing cemeteries only are permitted uses. The Cincinnati Park Board currently maintains three cemeteries, and in the event that ownership or maintenance of any other existing cemetery is transferred to the Park Board, those cemeteries would also be permitted uses. The limitation is in place to discourage parks or recreation properties from being converted to cemeteries.

Cultural Institutions – Permitted

As Cincinnati's parks and recreation areas are often home to our City's most recognized Cultural Institutions (such as the Cincinnati Art Museum, Playhouse in the Park, and Krohn Conservatory in Eden Park), they should be included as permitted uses in a new PR district. Any future Cultural Institutions would be permitted without requiring conditional use approval. This was one use upon which not all members of the working committee agreed. Some members felt that conditional use approval should be required so as not to allow Cultural Institutions in inappropriate locations. Because the location of a Cultural Institution in a park or recreation area would require such intense public dialogue between the Community Council and surrounding property owners before approval by the Park Board or CRC, City Staff felt that the additional process of a conditional use hearing would be excessive enough to constitute over-regulation. Some working committee members staunchly disagree with this position.

Government Facilities and Offices: Offices – Permitted with a Limitation

Office uses for the administration of Parks and Recreation Facilities, their lessees and concession operators are permitted. All other Government Offices require conditional use approval. The Park Board and CRC each have offices located on park and recreation property. Additionally, both also lease space to users and concessions (such as the Hillside Trust) that support and further the goals of and provide additional income to the Park Board and Recreation Commission.

Public Maintenance Facilities – Permitted with a Limitation

Public Maintenance Facilities for the maintenance of Parks and Recreation Facilities are permitted. All other Public Maintenance Facilities require conditional use approval. The Park Board and CRC both keep vehicles and other maintenance equipment on-site for maintenance of their properties. These uses are integral to the daily operations of parks and recreation facilities. Any new Public Maintenance Facilities located on Park Board or CRC properties that service any other public department would require conditional use approval.

Full Service Restaurants – Conditional

In the event that the Park Board or CRC wish to enhance an existing or future park or recreation facility with a full service restaurant, it would require conditional use approval.

A full service restaurant is defined as a sit-down restaurant where patrons order and are served while seated and pay after eating. Limited service restaurants, where table service is not provided and patrons pay before eating, are not permitted. Any snack bars or other food concessions located within parks or recreation areas are not included in this classification, but are already permitted as defined in *Park and Recreation Facility*.

Funeral and Interment Services – Permitted with Limitations

Permitted only as an accessory use to existing Cemeteries. Some existing cemeteries may provide this service. Funeral and Interment Services are not encouraged to be developed in any other existing or new park and recreation facilities.

Development Regulations

Maximum Height

The maximum height of structures in the proposed new district is 35 feet. This is the maximum height allowed in all Single Family zones.

Minimum Yards

The proposed PR District is less restrictive than Single Family zones with regard to setback requirements. The Single Family zones require minimum lot sizes of 25-70 feet, front yard setbacks of 5-30 feet, side yard setbacks of 0/5-10/20, and rear yard setbacks of 20-35 feet. The working group considered various options for setbacks in the proposed PR district, including a chart basing setbacks on lot size, which is similar to the Single Family district. However, it became clear that enforcing setbacks on parks and recreation facilities would be difficult and perhaps a hindrance. One dilemma that arose is that many parks or recreation areas are located in areas with multiple access points or on private roads so that determining a front, side or rear yard would be problematic. Also, most new parks and recreation facilities do not conform to a specific type, but feature different facilities and elements as designed by the surrounding neighborhood and supported by the surrounding property owners and Community Council. This intensive public review before approval by the Park Board or Recreation Commission may negate the need for such strict regulation about structure location and constitute over-regulation.

Buffer Yards and Parking Lot Screening

In order to protect parks and recreation facilities from development on adjacent property, Staff also proposes amendments to the text in Chapter 1423-13 *Buffer Yards* and Chapter 1425-27 *Parking Lot Screening*. Amendments to Schedule 1423-13-A: *Required Buffer Yards* adds the PR district as a district that requires more intensive uses to buffer themselves when adjoining the less intensive district. Amendments to Chapter 1425-27 *Parking Lot Screening* require that parking lots on adjacent properties with more than four spaces provide buffering when adjoining a PR district.

Application of Parks and Recreation District

The PR designation will apply only to City-owned properties designated as parks or recreation areas and operated by the Cincinnati Park Board or Cincinnati Recreation

Commission. Initially, it will apply to 3,537 parcels that have been certified as owned by the City and under the purview of the Cincinnati Park Board or Cincinnati Recreation Commission. Other parcels are owned by the City and used as parks or recreation facilities, but may not be classified as such in the City's GIS mapping system. Additional work is necessary to officially determine that these parcels are owned by the City and correct them in the GIS system. Once this work is complete, these additional parcels will be changed to the PR designation.

Any new parcels purchased or accepted by the City as new parks or recreation facilities must be petitioned for a change to the PR District upon their purchase or acceptance by City Council. This excludes any parks or recreation facilities located within Planned Development (PD) Districts (such as the Cincinnati Riverfront Park within the proposed Banks Development) as the PD guidelines will govern the use of the property and any change in use would require an amendment to the Concept Plan.

It is important to note that a separate zoning district cannot guarantee that public parks or recreation areas will never be sold or redeveloped. The proposed PR district will only require any future developer to obtain approval for a zone change before redevelopment can take place.

CONCLUSIONS:

1. On April 7, 2006, the City Planning Commission determined that a Parks and Recreation Zoning District would provide a modicum of protection by requiring any non-park or recreation related development to go through a public zone change process before any development can occur.
2. The proposed PR District will allow City-owned parks and recreation areas to operate without over-regulating the Park Board and Cincinnati Recreation Commission.
3. The proposed PR District has been written specifically for parks and recreation areas. As presently written, the code allows these uses in many zones but requires parks and recreation areas to conform to many different guidelines. This new district will simplify the regulations.
4. The PR designation will apply only to City-owned properties designated as parks or recreation areas and operated by the Cincinnati Park Board or Cincinnati Recreation Commission.
5. The PR district will initially apply to 3,537 parcels that have been certified as owned by the City and under the purview of the Cincinnati Park Board or Cincinnati Recreation Commission. Additional parcels will be added to this designation at a later date after further research has determined their eligibility.

6. Amendments to the text in Chapter 1423-13 *Buffer Yards* and Chapter 1425-27 *Parking Lot Screening* are necessary to include guidelines for development in districts adjoining the new PR District.

RECOMMENDATION:

Department of Community Development and Planning staff recommended that City Planning Commission take the following actions:

ADOPT the text amendment to Chapter 1401 *Definitions* to include *wavepools* and *spraygrounds* as Park and Recreation Facilities;

ADOPT the text amendment to include the Park and Recreation (PR) Zoning District in the Cincinnati Zoning Code;

ADOPT the text amendment to Chapter 1423-13 *Buffer Yards* to include regulations for uses in districts adjoining the Parks and Recreation District;

ADOPT the text amendment to 1425-27 *Parking Lot Screening* to include regulations for uses in districts adjoining the Parks and Recreation District; and,

APPROVE the zone change for certain property owned by the City of Cincinnati to Park and Recreation (PR).

DISCUSSION

Ms. Keough-Jurs gave a brief overview of the staff report and presented a large map showing the Park and Recreation properties. She stated that after the new Zoning Code went into effect in 2004, the City Council directed Planning Staff and the Planning Commission to study the creation of a public park and recreation zoning designation. The goal would be to ensure that City-owned parks and recreation areas could not be sold to private entities without a public process.

Mr. Mooney asked if the Park Board had expressed an opinion in this matter. Ms. Keough-Jurs stated that Steve Schuckman of the Park Board was very involved with the study. She presented a chart that outlined the main benefits of the new Park and Recreation Zoning district.

Mr. Mooney asked if the Park Board had any reservations with the role the Planning Commission would play if the new Zoning District were created. Ms. Keough-Jurs stated that the Park Board supports the proposal and that they felt that the notification process would be beneficial. The new district was presented to the Park Board and they approved the Plan. She stated that there would not be any set-back requirements in the new district.

Mr. vom Hofe asked if the new district conformed to the Master Parks Plan. Ms. Keough-Jurs stated that it did and added that the Riverfront Park was part of The Banks

Planned Development District (PD) and would not be included in the new Parks and Recreation Zoning District.

Ms. Mary Croft, President of the East Price Hills Improvement Association, stated that the new district would correct the past notification issues.

Ms. Geri Kraus, North Avondale resident and Working Group member, stated that she supported the additional protection that the notification process would provide. She stated that she felt that if a restaurant with parking or a governmental use were established in a park, the amount of land used should be replaced within the neighborhood on a one-to-one basis.

Mr. Marvin Kraus, North Avondale resident, stated that he was concerned with the setbacks of accessory structures such as wind towers. He stated that he supported the new Zoning District and said that thought should be given to addressing new technology.

Mr. Mooney stated that in the past most parks were zoned SF-20 and asked if the new zoning would apply to governmental uses. Ms. Julia Carney, Law Department, stated that the only governmental uses permitted would be office buildings and would be bound by the Zoning Code.

Mr. Steve Slack, Clifton resident, stated that Ms. Keough-Jurs was very accurate and stated that he felt allowing full service restaurants in parks would not be advisable.

Motion:	Mr. Tarbell moved approval of Item #6.
Second:	Ms. McCray
Ayes:	Mr. Faux, Ms. McCray, Mr. Mooney, Mr. Tarbell, Mr. Dohoney and Mr. vom Hofe
Nays:	None, motion carried

ITEM #7 A report and recommendation on a proposed zone change along Burnet Avenue from the RMX Residential Mixed and CN-M Commercial Neighborhood Mixed to a PD Planned Development in the neighborhood of Avondale.

Ms. Margaret Wuerstle, Chief Planner presented this item.

GENERAL INFORMATION:

Petitioner: Mark J. Weber, Trustee and the City of Cincinnati
1 E. 4th St. 31400
Cincinnati, OH. 45202

Request: A change of zoning in the area bounded on west by Burnet, on the north by Hickory, on the east by Harvey and on the south by the southern boundary of 3437 Harvey, 431 Maple and on the north by the northern

boundary of the Post Office from the RMX Residential Mixed and CN-M Commercial Neighborhood Mixed to a PD Planned Development.

Adjacent Land Use and Zoning:

South: CN-M - Commercial Neighborhood Mixed
RMX - Residential Mixed

East: RMX - Residential Mixed

North: CN-M - Commercial Neighborhood Mixed

West: RMX - Residential Mixed
RM – 1.2 – Multi-family

Staff Conference: The Planning Division staff held a public conference on this request on Wednesday April 25, 2007. The petitioner, the property owner and the architects attended. No one in attendance had any concerns or were opposed to the project.

BACKGROUND:

Existing Use: The area is characterized by mostly vacant lots. As the Uptown Consortium acquired properties in the area, older buildings were cleared from the site. Most of the commercial buildings on Burnet Avenue along the length of the project site have been removed. The structures remaining on the rest of the site are mostly single-family homes.

Proposed Use: The redevelopment plan for phases 1 and 1A calls for mixed commercial development along Burnet, condominiums along Harvey Avenue and a parking structure in between the two. Open spaces have been identified between the residential area and the Post Office as well as mid-block along Burnet Avenue. A unified streetscape and landscape design will tie the entire area together and provide a unique identity for the neighborhood.

BASIC REQUIREMENTS OF A PLANNED DEVELOPMENT DISTRICT:

According to Section 1429-05 of the Cincinnati Zoning Code, a PD District and the development within a PD District must comply with the following:

- (a) *Minimum Area* – The minimum area of a PD must be two contiguous acres. The project site is approximately 8.48 acres.
- (b) *Ownership* – Evidence that the applicant has sufficient control over the tract of land to affect the proposed plan, including a list of all ownership and beneficial interests in the tract of land and the proposed development. This information has been provided. With the exception of one lot, the property is

owned by the applicant and the City of Cincinnati. The applicant has the property located at 3447 ½ Harvey Avenue under contract.

- (c) *Multiple buildings on a lot* – more than one building is allowed on a lot. There will be multiple buildings on the Planned Development project site.
- (d) *Historic Landmarks and Districts* – currently the site is neither in a historic district nor does it contain a historic landmark.
- (e) *Hillside Overlay Districts* – the site is not located in a Hillside Overlay District.
- (f) *Urban Design Overlay District* – the site is not located within an Urban Design Overlay District.

CONCEPT PLAN AND DEVELOPMENT PROGRAM STATEMENT:

According to Section 1429-09 of the Cincinnati Zoning Code, a petition to rezone a property to PD must include a concept plan and development program statement. The purpose is to describe the proposed use or uses to be conducted in the PD District. The concept plan must include text or diagrams that specify:

- (a) *Plan Elements* – the applicant has submitted a Development Program Statement entitled *Uptown Cincinnati Burnet Avenue Redevelopment – Phases One and 1A, Proposed Planned Development District, dated March 23, 2007, revised March 27, 2007*. This document outlines the development uses, character, and densities.
- (b) *Ownership* – With the exception of one lot, the property is owned by the applicant and the City of Cincinnati. The applicant has the property located at 3447 ½ Harvey Avenue under contract.
- (c) *Schedule* – A construction schedule is included in the Development Program Statement.
- (d) *Preliminary Reviews* – All utilities are available to the site and at adequate capacities. The owner has been coordinating the infrastructure issues with MSD, GCWW and other City departments. To ensure that all proposed infrastructure is sufficient, Planning Staff will circulate a copy of the final development plan upon submission to the necessary City departments.
- (e) *Density and Open Space* – The density and open space calculations are included on page 29 of the Development Program Statement.
- (f) *Other Information* – There are 1450 parking spaces provided for the commercial mixed-use component of the project and 112 parking spaces provided for the residential component.

PLANS:

On June 16, 2006 the Planning Commission approved the Final Burnet Avenue Urban Renewal Plan, dated April 2006, as the City's planning guide for properties within the Burnet Avenue Urban Renewal Plan boundaries and as the City's Urban Renewal Plan for elimination of blight within the Burnet Avenue Urban Renewal Plan boundaries. The City Council approved and adopted the Plan on August 2, 2006. Recommendations included in the Plan are as follows:

1. To make Burnet Avenue a unique urban place with an active and safe street life, including a range of new retailing opportunities where people will choose to live and work,
2. Provide new housing choices for residents,
3. Target programs for home improvement and home ownership within the neighborhood,
4. Seek a new unique identity that will enable Burnet Avenue to become known for special retailing experiences unlike those of many of its nearby competitors,
5. Establish a low income tax credit and/or a new markets tax credit fund(s),
6. Redevelop the site between Hickory and Rockdale with mixed-income replacement housing,
7. Develop a feasibility study for re-use of the building at the SW corner of Rockdale and Burnet,
8. Develop a large mixed-use development, which includes housing, parking and retail along Burnet Avenue,
9. Undertake a marketing study for new housing.

The Urban Renewal Plan proposed zone changes for several areas to insure that the Plan could be implemented as envisioned. It specifically stated: “Alternately, a PD designation of all or a portion of the entire project area would facilitate development of this area.” The proposed PD development is consistent with the recommendations of Burnet Avenue Urban renewal Plan.

FINDINGS:

Community Response: As stated above no persons in opposition to the project attended the zoning staff conference.

ANALYSIS:

The PD development will be pedestrian-friendly, with unique design elements that will give the area a distinct identity. It will serve as an effective transition between the institutional areas to the south and the residential areas to the north. The design of the structures will also be safety conscious, focusing on providing good visibility and transparency while promoting a positive image of the area.

The commercial area will consist of two buildings. The southernmost building is a six-story medical office building that will have a direct connection to the parking structure located behind it. The building will be designed in such a way that the mass is broken up into smaller pieces using different materials or forms in order to reduce it to a more neighborhood-oriented scale. The ground level will be transparent in order to provide a visual connection between the interior environment and the street. At the corner of Burnet and Northern Avenues, a mixed-use building is proposed with retail and/or a restaurant envisioned for the ground floor and offices on the top two levels of the building. A pocket park featuring an outdoor dining and/or gathering area will occupy the Burnet Avenue frontage between the two commercial buildings.

The proposed six-level, 1450-space parking structure will be tucked away behind the proposed commercial and residential developments. Due to the sloping character of the site, only five of the six levels of parking will be exposed above the ground on the east side of the parking structure. Two entries are proposed from the extended Northern Avenue.

The residential area (phase 1A) will consist of as many as seven condominium buildings of up to eight units each. The building entry on the street side will be at-grade on the first residential level. The topography of the site will slope down between the front and rear of the building so that the lower level will be under ground at the front of the building and will contain the parking and storage areas, which are accessible from the rear. This design will reduce the apparent height of the buildings. Parking will be provided under the building and in tandem parking spaces just outside the building garages. The parking will be served by a private drive in the rear of the buildings.

The streetscape will feature a five-foot wide sidewalk and a five-foot wide planting strip, with a walkway provided to the entry of each building from the street. The landscaping treatment will contribute to the unique identity of the area while tying the residential area in with the overall development.

The massing and height of the buildings overall will taper from largest to smallest from south to north, and west to east, consistent with the transition from an institutional area to a predominantly residential one. The parking garage and commercial buildings will not be visible from the front of the residential development along Harvey Avenue due to the sloping character of the site from there down to Burnet Avenue.

CITY PLANNING COMMISSION ACTION:

According to Section 1429-11(a) of the Cincinnati Zoning Code, City Planning Commission may recommend approval or conditional approval, with restrictions on the establishment of a PD District on finding that all of the following circumstances apply:

1. The PD concept plan and development program statement are consistent with applicable plans and policies and is compatible with surrounding development;

The proposed planned development project is consistent with the approved Burnet Avenue Urban Renewal Plan.

2. The PD concept plan and development program statement enhance the potential for superior urban design in comparison with the development under the base district regulations that would apply if the plan were not approved;

The RMX and the CN-M districts would not allow the proposed development. The property would require a rezoning to amore intense commercial district. The closest base district permitting the proposed development would be CC-M zoning district. Under the CC-M base district

regulations, the height limitation of 85 feet and the strict building placement requirements would limit the economic viability of the development and the ability of the developer to provide distinctively designed buildings.

3. Deviations from the base district regulations applicable to the property at the time of the PD application are justified by compensating benefits of the PD concept plan and development program statement;

Deviations from the base district regulations are justified by the compensating benefits of the PD Concept Plan and Development Program Statement. The PD concept plan and development program statement will create a unique identity for the area by providing an effective transition between the institutional character of Children's Hospital to the south, and the residential areas to the north, thereby weaving together these disparate entities to create a community.

4. The PD concept plan and development program statement includes adequate provisions for utility services, refuse collection, landscaping, traffic circulation, building design and preservation.

All aspects are covered in the Concept Plan and Program Development Statement.

FINAL DEVELOPMENT PLAN:

Pursuant to Section 1429-13 *Final Development Plan*, a final development plan and program statement would be submitted to City Planning Commission after approval of the concept plan and Planned Development (PD) designation by City Council.

A final development plan must be filed for any portion of an approved concept plan that the applicant wishes to develop and this plan must conform substantially to the approved concept plan and development program statement. The final development plan requirements anticipate changes from the concept plan by requiring significantly more detail. Approval of the final development plan will allow the developer to obtain building permits.

CONCLUSIONS:

1. The re-zoning of this property to Planned Development is necessary for the preservation and redevelopment of this vacant and blighted area.
2. The applicant, Mark J. Weber, Trustee, has submitted a satisfactory Concept Plan and Development Program Statement and has successfully met all basic requirements of the Planned Development District.
3. The PD zoning designation will not negatively impact the existing character of the surrounding area. Instead, it will significantly improve the neighborhood.

RECOMMENDATION:

The staff of the City Planning Department recommended the City Planning Commission take the following action:

1. Accept the Concept Plan and Development Program Statement for the proposed mixed commercial, office and residential development; and
2. Approve a zone change from RMX Residential Mixed and CN-M Commercial Neighborhood Mixed to a PD Planned Development for the property bounded on west by Burnet, on the north by Hickory, on the east by Harvey and on the south by the southern boundary of 3437 Harvey, 431 Maple and on the north by the northern boundary of the Post Office with the findings that the PD is consistent with the following requirements of Section 1429-11:
 - a. The PD Concept plan and Development Program Statement are consistent with applicable plans and policies and is compatible with surrounding development;
 - b. The PD Concept Plan and Development Program Statement enhance the potential for superior urban design in comparison with the development under the base district regulation that would apply if their plan were not approved;
 - c. Deviations from the base district regulations applicable to the property at the time of PD application are justified by compensating benefits of the PD Concept Plan and Development Program Statement; and
 - d. The PD Concept Plan and Development Program Statement includes adequate provisions for utility services, refuse collection, open space, landscaping, buffering, pedestrian circulation, traffic circulation, building design and building location.

DISCUSSION

10:07 Mr. Tarbell left the meeting.

Ms. Wuerstle gave a brief overview of the staff report and presented large maps to illustrate the location of the Planned Development District (PD).

Mr. Matt Latham, of The Uptown Consortium, gave a brief presentation of Phase I and IA of the project. He stated that the area consisted mainly of vacant lots and was mostly owned by The Uptown Consortium.

10:10 Mr. Tarbell returned to the meeting.

10:10 Mr. Mooney left the meeting.

Mr. Latham presented large graphics to illustrate the project. He stated that the project would create a unique mixed-use urban place consisting of new housing, office buildings, public spaces and parking. Phase I would consist of a parking structure and office buildings. Phase IA would consist of residential.

10:12 Mr. Mooney returned to the meeting.

Mr. vom Hofe stated that he liked the pedestrian friendly aspect of the project. He said he was concerned that the anchor appeared to be a huge concrete garage; six stories high. He asked if some of the parking levels could be build underground.

Mr. Latham stated that the first level of the garage would be underground and one of the offices buildings and all of the residential buildings would be taller than the parking structure. He said that the garage would have a distinct and attractive African design theme. He explained that he was working with DOTE to address any concerns redarding the road and traffic circulation issues.

Mr. Tarbell asked who would be using the parking garage. Mr. Latham stated that office workers from the two new buildings and Children's Hospital employees would use the majority of the space. Mr. Tarbell stated that he agreed that the hospital needs additional parking and said that the challenge was the relationship between housing and the dependency on auto use and parking. He mentioned that mass transit would also help alleviate the traffic and parking issues. Mr. Latham stated that he hoped to attract hospital employees to the 56 new housing units that would be built in the next phase.

Mr. Mooney stated that he felt the parking structure was designed more attractively than many in the area.

Mr. Tarbell asked if public dollars would be used for the project. Mr. Latham stated that the City had committed one million dollars for the project. The Uptown Consortium, Children's Hospital and the sale of the residential units would fund the remaining fifty-one million dollars needed for the project. Mr. Tarbell stated that it was helpful to know all the players involved and that he was supportive of the project.

Mr. Dohoney stated that he worked with the Uptown Consortium on this project and was very involved. He said that he felt that it was a very appropriate project and design.

Ms. Frances Smith, Avondale resident, asked if it was mandatory for residents to sell their homes for this project. Mr. Latham said no it was the resident's choice.

Ms. Tracie Hunter, Avondale resident, stated that she was concerned that Children's Hospital seemed to be dictating development in the neighborhood. She stated that she felt there was not enough communication with the historic African American residents. She stated that some of the residents would be displaced by the project.

Mr. Tarbell stated that he was born in that neighborhood and that he felt the buy-in of the residents for development by the hospital occurred over thirty years ago. He said that he felt the displacement happened a long time ago. Ms. Hunter stated that she was aware of resident's concern with the project. Mr. Tarbell stated that most of the property was vacant and that he felt the project was short of a miracle and would only improve the neighborhood.

Mr. Dohoney stated that there were planning meetings held in the neighborhood and that the Avondale Community Council supported the project. He stated that eminent domain was not an issue in this case.

Motion: Mr. Mooney moved approval of Item #7.
Second: Mr. Dohoney
Ayes: Mr. Faux, Ms. McCray, Mr. Mooney, Mr. Tarbell, Mr. Dohoney and Mr. vom Hofe
Nays: None, **motion carried**

ITEM #8 A report and recommendation on a proposed text amendment for §1427-37. Sign Standards for the C Districts of the Cincinnati Zoning Code.

Ms. Margaret Wuerstle, Chief Planner presented this item.

This item was discussed concurrently with item #8A.

PURPOSE:

To allow ground signs as a conditional use in the CN-P and CC-P zoning districts.

PROPOSED TEXT AMENDMENT:

For Signs in the **CN-P & CC-P Districts**, the following regulations apply:

CN-P & CC-P District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee or Canopy Signs	Awning Signs
Permitted Signs	No Conditional	Yes	Yes, if no wall, marquee, or canopy sign	Yes, if no projecting, marquee, or canopy sign	Yes, if no projecting or wall sign	Yes
Max. # of Signs	N/A 1 per site	Unlimited	1 per street frontage per establishment	1 per street frontage per establishment	1 per street frontage per establishment	1 per establishment
Max. Sign Area	N/A 30 sq. ft. per sign face	See §1427-29	28 sq. ft. per sign face	See §1427-37-(a)(1)	See §1427-37-(a)(1)	12 sq. ft.
Max. # of Sign Faces Permitted	N/A 2	1	2	1	1	1

CN-P & CC-P District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee or Canopy Signs	Awning Signs
Max. Sign Height	N/A- 6 ft.	See §1427-29	See §1427-27	See §1427-23	Not more than 2 ft. above marquee or canopy	Letters may not be higher than 12 inches
Max. Sign Width	N/A None	Horizontal limits of the window	See §1427-27	Horizontal limits of the wall	Horizontal limits of the marquee or canopy	Horizontal limits of the awning
Min. Setback from any lot line	N/A One-half the height of the sign	N/A	See §1427-27	N/A	N/A	N/A
Permitted Illumination	N/A External or Internal	External or Internal	External or Internal	External or Internal	External or Internal	None

JUSTIFICATION:

Mt. Lookout has many residential structures located within the commercial district that are being used for commercial purposes. These structures are set back from the sidewalk and the topography of the sites makes it difficult to place signage that will effectively provide identification of the businesses. Ground signs are currently prohibited in the CN-P and CC-P zoning districts and this has created a hardship for certain businesses in Mt. Lookout. Upon review of this issue, the Zoning Text Amendment Committee determined that this same issue might affect other neighborhoods and recommended that ground signs be permitted as a conditional use in the CN-P and CC-P zoning districts which would allow consideration on a case-by-case basis after public notification.

RECOMMENDATION:

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

ITEM #8A A report and recommendation on a Proposed text amendment for §1427-37. Sign Standards for the C Districts of the Cincinnati Zoning Code.

Ms. Margaret Wuerstle, Chief Planner presented this item.

PURPOSE:

To allow ground signs as a conditional use in the CN-P and CC-P zoning districts.

PROPOSED TEXT AMENDMENT:

For Signs in the **CN-P & CC-P Districts**, the following regulations apply:

CN-P & CC-P District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee or Canopy Signs	Awning Signs
Permitted Signs	No <u>Conditional</u>	Yes	Yes, if no wall, marquee, or canopy sign	Yes, if no projecting, marquee, or canopy sign	Yes, if no projecting or wall sign	Yes
Max. # of Signs	N/A <u>1 per site</u>	Unlimited	1 per street frontage per establishment	1 per street frontage per establishment	1 per street frontage per establishment	1 per establishment
Max. Sign Area	N/A <u>30 sq. ft. per sign face</u>	See §1427-29	28 sq. ft. per sign face	See §1427-37-(a)(1)	See §1427-37-(a)(1)	12 sq. ft.
Max. # of Sign Faces Permitted	N/A <u>2</u>	1	2	1	1	1
Max. Sign Height	N/A <u>6 ft.</u>	See §1427-29	See §1427-27	See §1427-23	Not more than 2 ft. above marquee or canopy	Letters may not be higher than 12 inches
Max. Sign Width	N/A <u>None 6ft</u>	Horizontal limits of the window	See §1427-27	Horizontal limits of the wall	Horizontal limits of the marquee or canopy	Horizontal limits of the awning
Min. Setback	N/A <u>One-half</u>	N/A	See §1427-27	N/A	N/A	N/A

CN-P & CC-P District	Ground Signs	Window Signs	Projecting Signs	Wall Signs	Marquee or Canopy Signs	Awning Signs
from any lot line	the height of the sign					
Permitted Illumination	N/A External or Internal	External or Internal	External or Internal	External or Internal	External or Internal	None

JUSTIFICATION:

Mt. Lookout has many residential structures located within the commercial district that are being used for commercial purposes. These structures are set back from the sidewalk and the topography of the sites makes it difficult to place signage that will effectively provide identification of the businesses. Ground signs are currently prohibited in the CN-P and CC-P zoning districts and this has created a hardship for certain businesses in Mt. Lookout. Upon review of this issue, the Zoning Text Amendment Committee determined that this same issue might affect other neighborhoods and recommended that ground signs be permitted as a conditional use in the CN-P and CC-P zoning districts which would allow consideration on a case-by-case basis after public notification.

On May 10, 2007 the public staff conference was held on this text amendment. The neighborhood representatives in attendance requested that the width of the signs be limited to 6 feet to prevent signs that may be 2 feet by 15 feet. This is consistent with the maximum width of signs in the OL – Office districts.

RECOMMENDATION:

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the revised text amendment.

DISCUSSION

Ms. Wuerstle gave a brief overview of the staff report and stated that it was very similar to Item #8 that was by the Text Amendment Committee. Item #8A includes one change to the maximum sign width. In item 8A the maximum sign width is limited to 6 feet where as item #8 had no maximum sign width. It was pointed out at the staff conference that without the 6 foot limitation, a sign could be constructed that would be 2 feet by 35 feet. This would not be desirable.

Mr. Carl Uebelacker, Hyde Park Community Council member, stated that he agreed with the staff report.

Motion: Mr. Mooney moved approval of Item #8A.
Second: Mr. vom Hofe

Ayes: Mr. Faux, Mr. Mooney, Mr. Tarbell, Mr. Dohoney and Mr. vom Hofe
Nays: None, **motion carried**

ITEM #9 A report and recommendation on a proposed text amendment for §1421-21. Front Yard Modifications of the Cincinnati Zoning Code.

Ms. Margaret Wuerstle, Chief Planner presented this item.

This item was discussed concurrently with item #9A.

PURPOSE:

To add language to the Zoning code that would allow modification of the front yard setback requirement through averaging in situations where the existing front yard setbacks are greater than the minimum required front yard setback for the district.

PROPOSED TEXT AMENDMENT:

§ 1421-21 Front Yard Modifications.

The front yard requirements specified for principal buildings may be modified subject to the following:

(a) *Required Front Yard.* Principal buildings must have a front yard that:

- (1) If abutted on both sides by the improved lots whose front yards do not conform with the district regulations, equals the average depth of those abutting front yards; or
- (2) If abutted on one side by an unimproved lot or a side street of a corner lot and on the other side by an improved lot whose front yard does not conform to the district regulations, equals the average of the depth of the front yard of the improved lot and the front yard setback requirement of the district; or
- (3) Where the average depth of existing front yards within 400 feet of the lot in question and within the same block front is greater than the minimum required front yard setback for the district, the minimum required front yard setback shall be the average depth of said existing front yards.

(b) *Double Frontage Lots.* Where a lot extends through the block from street to street, the required front yard must be provided along each street.

(c) *Increased Front Yard.* In addition to the front yard requirements set forth for the SF, RM and O Districts and after adjusted by other provisions of this section, the required front yard must be increased by one foot for each ten feet or fraction thereof by which the width of the building exceeds 60 feet.

JUSTIFICATION:

A text amendment was requested by Carl Uebelacker on behalf of the Hyde Park Neighborhood Council. The Zoning Text Amendment Committee (ZTAC) reviewed the requested amendment on March 22, 2007. After discussion, the ZTAC concluded that setback averaging may eliminate property owners' rights to subdivide large lots and also that setback averaging may not be appropriate for all communities. The ZTAC recommended that the Hyde Park Neighborhood Council request a zoning study to determine if certain districts should be changed to a SF-20 designation.

Rezoning properties in Hyde Park to SF-20 will not resolve the Hyde Park Neighborhood Council's issue. Some of the lots in this neighborhood are over 40,000 square feet and can be subdivided into 20,000 square foot lots meeting the minimum lot size requirement of the SF-20 district. Additionally, the SF-20 district requires a front yard setback of 30 feet. Many existing structures in Hyde Park are setback more than 30 feet. New structures can be constructed so as to protrude substantially into the front yard open space of existing structures, thereby destroying the character of older residential neighborhoods.

Furthermore, §1421-21 **Front Yard Modifications** of the Zoning Code already allows for reduced front yard setbacks through setback averaging for:

- Properties abutted on both sides by improved lots whose front yards do not conform with the district regulations and
- Properties abutted on one side by an unimproved lot or a street (in the case of a corner lot) and on the other side by an improved lot whose front yard does not conform to the district regulations.

The Zoning Code recognizes the potential for incompatible setbacks when new buildings are constructed immediately adjacent to existing structures with front yard setbacks less than required by the current Zoning Code. In this situation, the Code allows for a reduction in the front yard setback through averaging. The Hyde Park Neighborhood Council is simply asking for front yard setback averaging to be allowed in a converse situation where the existing structures have front yard setbacks greater than required by the Zoning Code. In this converse situation the difference in the setbacks between the new and existing structures can have an even greater impact especially on older neighborhoods.

On April 11, 2007 the City Council directed staff to prepare a text amendment to the Zoning Code that would address this issue and protect the character of older residential neighborhoods.

RECOMMENDATION:

The Department of Community Development and Planning staff recommended that the City Planning Commission approve the requested text amendment.

ITEM #9A A report and recommendation on a proposed text amendment for §1421-21. Front Yard Modifications of the Cincinnati Zoning Code.

Ms. Margaret Wuerstle, Chief Planner presented this item.

PURPOSE:

To add language to the Zoning code that would modify the front yard setback requirement through averaging in situations where the existing front yard setbacks do not equal the minimum required front yard setback for the district.

REVISED PROPOSED TEXT AMENDMENT:

§ 1421-21 Front Yard Modifications.

The front yard requirements specified for principal buildings will ~~may~~ be modified subject to the following:

(a) **Required Front Yard.** Principal buildings must have a front yard that:

- (1) If abutted on both sides by the improved lots whose front yards do not conform with the district regulations, may adjust to equals the average depth of those abutting front yards; or
- (4) If abutted on one side by an unimproved lot or a side street of a corner lot and on the other side by an improved lot whose front yard does not conform to the district regulations, may adjust to equals the average of the depth of the front yard of the improved lot and the front yard setback requirement of the district; or
- (5) If abutted on both sides by the improved lots excluding pan handle lots, whose front yards exceed the district regulations, will adjust to equal the average depth of those abutting front yards; or
- (6) If abutted on one side by an unimproved lot or a side street of a corner lot and on the other side by an improved lot whose front yard exceeds the district regulations, will adjust to equal the depth of the front yard of the improved lot.

[Note: Must add illustrations to FIGURE 1421-21 showing 3 and 4.]

JUSTIFICATION

At the staff conference held on May 10, 2007, the neighborhoods in attendance were concerned with averaging the properties within 400 feet. They felt that the 400-foot requirement would create a “sawtooth” effect that would not be desirable. Additionally, the neighborhood representatives felt that in neighborhoods with established setbacks greater than required by code, the averaging should be mandatory.

DISCUSSION

Ms. Wuerstle gave a brief overview of the staff report and stated that it reflected changes that were suggested at the staff conference held on May 10, 2007. The staff conference was held after the Planning Commission packets were mailed and therefore a supplemental staff report was written. She explained that the 400-foot requirement that was proposed in Item #9 would create a “sawtooth” effect that would not be desirable. Additionally, the neighborhood representatives felt that in neighborhoods with established setbacks greater than required by code, the averaging should be mandatory.

Mr. Mooney stated that it seemed arbitrary and could be subject to challenge. He said he was aware of a situation where two houses were built on a property that had contained a tennis court. He said that he understood that there is sometimes economic pressure to subdivide property. He suggested that neighborhoods with concerns with subdivided lots investigate the possibility of creating their own Historic District. He stated that he felt that Historic District Guidelines would provide some protection to established neighborhoods.

Ms. Carney, Law Department, stated that typically the Law Department drafts text amendments and that she did not have the opportunity to review Item #9A prior to the meeting. Mr. Mooney suggested that the chairman continue with testimony from speakers and give Ms. Carney the opportunity to review the proposed text amendment. Ms. Wuerstle explained that City council had directed staff to prepare a text amendment to address the setback averaging issue, and that this was the last Planning Commission meeting the amendment could be considered and still ensure that it would be before Council prior to their summer recess.

Ms. Wuerstle stated that the neighborhood members felt that a 400 feet average was not desirable and also that would be difficult to administer. Mr. vom Hofe agreed that using adjacent properties to average setbacks would be simpler.

10:59 Ms. McCray left the meeting.

Mr. Carl Uebelacker, Hyde Park Community Council member, stated that he felt Item #9A was most acceptable and did not prohibit fill-in new housing. He stated that the construction of houses on minimum set-backs in neighborhoods with established setbacks far greater than those required by code reduce the value of all properties in the neighborhood. He was concerned that there could be an increase of infill housing with inappropriate setbacks if Item #9A was not quickly approved and presented to City Council before the summer break. He stated that he supported the staff recommendations.

Mr. Marvin Kraus stated that he supported the staff recommendations for Item #9A. He stated that it was in the City’s best interest to protect large homes on large lots. He said Item #9A addresses the problem through zoning and protects the value of single-family residences.

Mr. Dohoney left the meeting at 11:14 am.

Ms. Marilyn Harrison, of Preserve Hyde Park, stated that she and the organization supported Item #9A staff recommendations. She stated that she lives on a street with large setbacks and was concerned that her neighborhood could be negatively impacted.

Ann Swanson stated that she supported Item #9A staff recommendations.

Louise Jenks stated that she supported Item #9A staff recommendations.

Jean Schmidt stated that she supported Item #9A staff recommendations.

Gil Davis stated that he supported Item #9A staff recommendations.

David Konusman stated that he supported Item #9A staff recommendations.

Bob Swanson stated that he supported Item #9A staff recommendations.

Jim Miller stated that he supported Item #9A staff recommendations.

Ms. Carney returned to the meeting.

Mr. Faux stated that Ms. Carney needed additional time to draft the text amendment language and would resubmit it at the next Planning Commission meeting on June 1, 2007. Mr. Faux stated that the Planning Commission supported the concept of Item #9A and would act on it at the next meeting. Mr. Mooney agreed and stated that he would not be comfortable approving the item without the final language.

Ms. Kraus stated that the staff recommendations are the right thing to do for the neighborhoods and urged the Planning Commissioners to approve the Staff Report. Mr. Gil Davis agreed and asked the Commissioners to support the neighborhoods.

Mr. Faux stated that he understood the urgency and explained that it was the Planning Commission's intent to get this text amendment to the City Council prior to summer break. Mr. Tarbell agreed and stated that it was most prudent to wait for the Law Department to draft the language.

Motion:	Mr. Mooney moved approval of the concept for Item #9A. The final language of the text amendment is to be presented at the June 1, 2007 meeting of the Planning Commission for approval.
Second:	Mr. vom Hofe
Ayes:	Mr. Faux, Mr. Mooney, Mr. Tarbell, and Mr. vom Hofe
Nays:	None, motion carried

ADJOURN

Motion: Mr. vom Hofe moved to adjourn.
Second: Mr. Tarbell
Ayes: Mr. Faux, Mr. Mooney, Mr. Tarbell, and Mr. vom Hofe
Nays: None, **motion carried**

Margaret A. Wuerstle, AICP
Chief Planner

Caleb Faux, Chair

Date: _____

Date: _____